

Department of Conservation & Recreation
VIRGINIA LAND-DISTURBANCE GUIDANCE FOR TELEPHONE, CABLE,
ELECTRIC, NATURAL GAS PIPELINE, AND RAILROAD COMPANIES

I. Regulated and Exempt Land-disturbing Activities

Section 10.1-563D of the Virginia Erosion and Sediment Control Law (VESCL) requires electric, natural gas, telephone, and cable utility companies, as well as interstate and intrastate natural gas pipeline companies conducting land-disturbing activities in Virginia to submit general Erosion and Sediment Control (ESC) Specifications annually with the Department of Conservation and Recreation (DCR) for review and written approval to legally disturb land. The VESCL defines a land-disturbing activity as any land change that may result in soil erosion and the movement of sediments into state waters or onto lands in the Commonwealth, that involves the clearing, grading, excavating, transporting, and filling of land. Specifically, land-disturbing activities by telephone, cable, electric, natural gas pipeline and railroad companies are regulated by DCR. ESC Specifications should address:

1. All activities that involve the construction, installation, and maintenance of electric, natural gas, telephone, and cable lines and natural gas pipelines.
 - a. Includes land-disturbing activities in both public and private rights-of-ways and easements, for example, disturbance in residential subdivision easements as well as Virginia Department of Transportation rights-of-ways.
 - b. Includes activities associated with both distribution and transmission lines.
 - c. Includes disturbance of the land by construction and installation equipment, as well as the disturbance associated with the trench.
 - d. Includes the construction of access roads, staging areas, and borrow/spoil sites associated with the land-disturbance.
 - e. Includes activities associated with maintaining utility and natural gas pipelines, such as clearing rights-of-ways.
2. Activities that involve the new construction of railroad tracks, rights-of-way, bridges, buildings, and facilities.

Land-disturbing activities by telephone, cable, electric, natural gas pipeline and railroad companies that are exempt include:

1. Disturbed lands of less than 10,000 square feet in size, unless the local government has more stringent requirements, the most common being the regulation of land-disturbing activities of 2,500 square feet in jurisdictions governed by the Chesapeake Bay Preservation Act (generally east of Interstate 95). However, please note that if your utility or pipeline company has but one project greater than 10,000 square feet, you must submit ESC Specification. For example, lines constructed from the distribution line adjacent to subdivision road, that connect individual houses are exempt. However the utility line that serves one or more customer is regulated.
2. Individual service connections.
3. Underground public utility lines installed, repaired, or maintained on an existing hard-surfaced road, street, or sidewalk.
4. Installation of fencing, sign posts, posts, or poles.
5. Repairs to existing railroad tracks, rights-of way, bridges, and facilities.
6. Purchasing time on existing overhead or underground lines (no new land-disturbance).
7. Please note that all other regulated land-disturbing activities not covered above, must comply with the requirements of the local ESC program. For example, the local program would regulate construction of water lines, sanitary sewer, storm sewer, buildings, and facilities.

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II. Minimum Requirements for ESC Specifications Submittal

ESC Specifications include, at a minimum, a **description** and **illustration** of the erosion and sediment control measures and policies that will be generally implemented by telephone, cable, electric, natural gas pipeline and railroad companies during regulated land-disturbing activities. The following information is **required at a minimum** in the ESC Specifications Submittal:

- ☐ Company contact and contact information (phone, fax and e-mail).
- ☐ Define the company's obligations to ensure self-inspection, reporting, training, certification, environmental protection, and safety.
- ☐ Descriptions of how the company will meet the appropriate Minimum Standards of the Virginia Erosion & Sediment Control Regulations (*Ref. §4VAC50-30-40*). Please ensure that the methods of crossing waterbodies, permanently stabilizing disturbed areas, installing ESC measures as a first step, and maintaining easements, are addressed.
- ☐ Include the ESC practices specified in the *1992 Virginia Erosion and Sediment Control Handbook (Handbook)* standard details and symbols that will be employed during the land-disturbing activity.
- ☐ ESC practices not specified in the *Handbook*, such as trench plugs and directional drilling, shall describe in narrative format how the measures meet the 19 Minimum Standards and detailed as represented on construction plans (standard detail, symbol and notes).
- ☐ Provide Project-Specific Information on all linear projects planned to be constructed in 2004. Include the following information:
 - Obligations to contact DCR concerning projects unknown at this time
 - Project Name (or Number)
 - Project Location (including nearest major intersection)
 - On-site project manager name and contact information
 - Project Description
 - Disturbed acreage estimate
 - Projected start and finish dates
- ☐ As of July 1, 2003, VESCL requires a Responsible Land Disturber (RLD) to be identified prior to land-disturbance. Obligate to notify DCR of the RLD name, certification number, and contact information at LinearProjects@dcr.state.va.us at least 2 weeks prior to construction.
- ☐ If 2004 project information is unknown at ESC Specification submission time, the company must obligate to notify DCR of all projects involving regulated land-disturbing activities scheduled in 2004. Future project information must be submitted to DCR at LinearProjects@dcr.state.va.us at least 2 weeks prior to construction.

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III. Variance Requests

Modifying or waiving any of the ESC regulations, including the 19 Minimum Standards, on a project-specific basis, requires companies to submit a written Variance Request to DCR for review and approval. A typical project that requires a Variance is a project that opens more than 500 feet of trench at one time (Minimum Standard 16). Variance Requests included in the ESC Specifications should be confined to linear activity. For example, Minimum Standard 6 (Sediment Traps and Basins) generally does not apply to linear projects; therefore, a Variance is not needed. The recommended protocol for submitting Variance Requests is available on the DCR website at <http://www.dcr.state.va.us/sw/e&s.htm#util>.

IV. Compliance

Electric, natural gas, telephone, and cable lines and natural gas pipelines companies conducting land-disturbing activities are required to provide project-specific information and identify the person who will serve as the RLD (as listed above in section II) either as part of the ESC Specifications submittal or to LinearProjects@dcr.state.va.us at least 2 weeks prior to construction.

DCR Regional Office staff periodically inspect linear projects covered under the ESC Specifications, and the Virginia Soil and Water Conservation Board may undertake enforcement action if a project is out of compliance. Companies are urged to periodically inspect their projects routinely (in some cases, regular inspection is a condition of approval). DCR also recommends pre-construction conferences with contractors, sub-contractors, land-developers, consultants and right-of-way users to clearly communicate the practices, policies, and responsibilities in the approved ESC Specifications.

V. Additional Information

This document, the VESCL, the VESCR and the *Handbook* are available at DCR's website, <http://www.dcr.state.va.us/sw/e&s.htm>. Questions regarding linear project land-disturbance, ESC Specification and Variance Request submission, and related issues should be directed to Larry Gavan at (804) 786-4508 or LinearProjects@dcr.state.va.us.

Please note that when disturbing one (1) acre or more of land, the Department of Environmental Quality must be contacted to ensure compliance with the Virginia Pollution Discharge Elimination System Permit Program at <http://www.deq.state.va.us/waterquality/erosion.html>.